

Serial No. 09/633,197 (Atty. Dkt. No. SEDN/264)  
Page 7 of 12

### **REMARKS**

This response is intended as a full and complete response to the non-final Office Action mailed April 6, 2006. In the Office Action, the Examiner notes that claims 1-6, 8-19, 22 and 23 are pending, of which claims 1-6, 8-19, 22 and 23 are rejected. By this response, the claims continue unamended.

In view of the following discussion, Applicant submits that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Thus, Applicant believes that all of these claims are now in allowable form.

It is to be understood that Applicant does not acquiesce to the Examiner's characterizations of the art of record nor to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

### **Information Disclosure Statement**

An information disclosure statement was filed October 22, 2001 and was received by the Patent Office on January 15, 2002. According to our records, the documents in that statement have not been considered by the Examiner. Applicant respectfully requests that the Examiner consider the listed documents.

### **35 U.S.C. §102 Rejection of Claims 13-15 and 18-19**

The Examiner has rejected claims 13-15 and 18-19 under 35 U.S.C. §102(e) as being anticipated by Sie et al. (US 6,973,662, hereinafter "Sie"). Applicant respectfully traverses the rejection.

The Examiner's use of the Sie patent as prior art against Applicant's invention, by itself, is improper. More specifically, the Sie patent was filed on October 12, 2000. The

456377-1

Serial No. 09/633,197 (Atty. Dkt. No. SEDN/264)  
Page 8 of 12

present application was filed on August 7, 2000. Since the filing date of the present application precedes the filing date of the Sie patent, the Sie patent is not prior art to Applicant's invention.

Applicant notes that the Sie application claims priority to provisional patent applications filed November 3, 1999 and October 13, 1999 (hereinafter referred to as the "Sie provisional applications"). Under 35 U.S.C. §102(e), the filing date of a provisional patent application may be the effective filing date of a United States patent claiming priority to such provisional patent application **only to the extent that such provisional patent application supports the subject matter used to make the rejection.** See MPEP §706.02(f). Thus, the Examiner must provide some evidence that the Sie provisional applications support the subject matter of the Sie patent used in the rejection. Specifically the Applicant is questioning whether the Sie patent contains the subject matter used by the Examiner in the rejection.

Notably, there is no prohibition against the inclusion of subject matter in a non-provisional patent application that was not described in a prior provisional application to which the non-provisional application claims priority. That is, a non-provisional patent application may include new material not described in the provisional application. It is axiomatic that such new material does not receive the benefit of the provisional application. Applicant is not aware of any law, rule, or otherwise that all subject matter described in a non-provisional application is presumed to be described in a provisional application to which the non-provisional application claims priority. Thus, it is possible that the subject matter in the Sie patent relied on by the Examiner is not described in the Sie provisional applications (i.e., the subject matter in the Sie patent relied on by the Examiner may constitute new material with respect to the Sie provisional applications). In such a case, the cited subject matter would not constitute prior art to Applicant's invention. Therefore, in order to set forth a prima facie case, the Examiner must provide evidence that the Sie provisional applications support the subject matter of the Sie patent used by the Examiner in the rejection.

456377-1

Serial No. 09/633,197 (Atty. Dkt. No. SEDN/264)  
Page 9 of 12

As such, without such evidence, Applicant submits that independent claim 13 is not anticipated and fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder. Furthermore, claims 14-15 and 18-19 depend, either directly or indirectly, from independent claim 13 and recite additional limitations thereof. As such and at least for the same reasons as discussed above, Applicant submits that these dependent claims are also not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder.

Therefore, Applicant respectfully requests that the Examiner's rejections be withdrawn.

**35 U.S.C. §103 Rejection of Claims 1-3, 6, 8-10, and 22-23**

The Examiner has rejected claims 1-3, 6, 8-10, and 22-23 under 35 U.S.C. §103(a) as being unpatentable over Sie in view of Gordon (5,920,700, hereinafter "Gordon") and further in view of Thomas Huston et al. (US 2002/0007402, hereinafter "Huston"). Applicant respectfully traverses the rejection.

As discussed above, Applicant respectfully submits that the Sie patent is not proper prior art without evidence that the Sie provisional applications support the subject matter of the Sie patent used by the Examiner in the rejection. As such, the alleged combination of Sie with Gordon and Huston as a rejection against claims 1-3, 6, 8-10 and 22-23 is improper because Sie is not a proper prior art reference. Therefore, Applicant contends that claims 1 and 8 are patentable over Sie with Gordon and Huston and, as such, fully satisfy the requirements of 35 U.S.C. §103.

Furthermore, claims 2-3, 6, 9-10 and 22-23 depend, either directly or indirectly, from claims 1 and 8 and recite additional features. Since Sie in view of Gordon and Huston do not render obvious Applicant's invention as recited in claims 1 and 8, dependent claims 2-3, 6, 9-10 and 22-23 are also not obvious and are allowable.

As such, the Applicant respectfully requests the rejection be withdrawn.

Serial No. 09/833,197 (Atty. Dkt. No. SEDN/264)  
Page 10 of 12

**35 U.S.C. §103 Rejection of Claims 4-5 and 11-12**

The Examiner has rejected claims 4-5 and 11-12 under 35 U.S.C. §103(a) as being unpatentable over Sie in view of Gordon and Huston as applied to claim 1 or claim 8 above, and further in view of Carlin et al. (U.S. 6,119,152, hereinafter "Carlin"). Applicant respectfully traverses the rejection.

Claims 4-5 and 11-12 depend directly or indirectly from independent claims 1 and 8. Moreover, for at least the reasons discussed above, Sie in view of Gordon and Huston do not render obvious Applicant's invention as recited in claims 1 and 8. Accordingly, any attempted combination of the Sie, Gordon and Huston references with any other additional references in a rejection against the dependent claims would still result in a gap in the combined teachings in regards to the independent claims. As such, Applicant submits that dependent claims 4-5 and 11-12 are patentable under 35 U.S.C. §103.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

**35 U.S.C. §103 Rejection of Claim 16**

The Examiner has rejected claim 16 under 35 U.S.C. §103(a) as being unpatentable over Sie as applied to claim 13, and further in view of Huston. Applicant respectfully traverses the rejection.

Claim 16 depends directly from independent claim 13. Moreover, for at least the reasons discussed above, the Sie reference fails to teach or suggest Applicant's claimed invention as a whole as recited in independent claim 13. Accordingly, any attempted combination of the Sie reference with any other additional references in a rejection against the dependent claims would still result in a gap in the combined teachings in regard to the independent claims. As such, Applicant submits that dependent claim 16 is patentable under 35 U.S.C. §103.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

456377-1

Serial No. 09/633,197 (Atty. Dkt. No. SEDN/264)  
Page 11 of 12

### **35 U.S.C. §103 Rejection of Claim 17**

The Examiner has rejected claim 17 under 35 U.S.C. §103(a) as being unpatentable over Sie as applied to claim 13, and further in view of Martin et al. (US 6,606,607, hereinafter "Martin"). Applicant respectfully traverses the rejection.

Claim 17 depends directly from independent claim 13. Moreover, for at least the reasons discussed above, the Sie reference do not render obvious Applicant's claimed invention as a whole as recited in independent claim 13. Accordingly, any attempted combination of the Sie reference with any other additional references in a rejection against the dependent claims would still result in a gap in the combined teachings in regard to the independent claims. As such, Applicant submits that dependent claim 17 is patentable under 35 U.S.C. §103.

Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

### **SECONDARY REFERENCES**

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicant's disclosure than the primary references cited in the Office Action. Therefore, Applicant believes that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

### **CONCLUSION**

In view of the foregoing remarks, Applicant believes that this application is in condition for allowance. Reconsideration of this application and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that

Serial No. 09/633,197 (Atty. Dkt. No. SEDN/264)  
Page 12 of 12

the Examiner telephone Eamon J. Wall or Jasper Kwok at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated:

6/30/06



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